

REMARKS

The Claims in the case are 2, 3, 4, 6, 12, 13, 15, 16, 27-28 and 31-33. Claim 2 has been amended in view of the written description rejection and the indefiniteness rejection. Claims 10-11, 14, 18, 19, 21-22, and 24-26 have been cancelled without prejudice. Applicants reserve full rights to re-introduce the subject matter cancelled from the claims and claims themselves in this or any other application claiming the benefit of priority to the captioned application.

New Claims 31-33 have been added. Support for the new claims can be found throughout the specification at, for example, Table F-1.

Claim 2 has been amended to add thienyl from original claim 1 in R¹, to remove R³ as being a group of formula (b-1), Z is the heterocyclic ring system (c-4), R⁴ in the proviso has hydrogen removed therefrom, and the definition of aryl from original claim 1 has been added.

It is submitted that no new matter has been added by the above amendments.

Enablement Rejection

Claims 10, 11, 18, 19, 21, 22, 24, and 25 were rejected under 35 USC §112, first paragraph, on the asserted grounds that the specification “does not provide reasonable enablement for a method to enhance chemotherapy effectiveness or radiotherapy effectiveness with the claimed compounds.” (Office Action at page 2.)

The Applicants respectfully traverses this rejection.

While the position taken by the Patent Office is not agreed with, the Applicants have cancelled claims 10, 11, 18, 19, 21, 22, 24, and 25 solely to expedite prosecution on the merits. Applicants reserve the right to re-introduce those cancelled claims in this or any other patent application claiming the benefit of priority to the captioned application. It is believed that the rejection is moot and withdrawal thereof is respectfully requested.

Written Description Rejection

Claims 2, 3, 6, 10-16, 18, 19, 21, 22, and 24-27 were rejected under 35 USC §112, first paragraph, as containing subject matter that was not described in the specification in such a way to convey that the inventors, at the time the application was filed, had possession of the claimed invention. (Office action at page 7.) The Patent Office indicated that “this is a new matter rejection.” (*Id.*)

The Applicants respectfully traverses this rejection.

Claims 10, 11, 14, 18, 19, 21, 22, and 24-26 have been cancelled. Therefore, the rejection is moot as to those claims and withdrawal thereof is respectfully requested.

In making the rejection, the Patent Office contended that

There is no support in the application as filed for the added proviso in claim 2 "that when n is 0, X is N, R² is hydrogen, R³ is a group of formula (b-1), Z is the heterocyclic ring system (c-2) or (c-4) wherein said heterocyclic ring system Z is attached to the rest of the molecule with a nitrogen atom, and R¹⁰ is hydrogen; then R⁴ is other than hydrogen, C₁₋₆alkyl or pyridinyl." limitation in claim 152 of "multiple (Office Action at page 7.)

The Patent Office is reminded that claim 1 was cancelled in the previous paper submitted in the captioned application. Original claim 1 contained the following proviso:

with the proviso that when
n is 0, X is N, R² is hydrogen, R³ is a group of formula (b-1), Z is the heterocyclic ring system (c-2) or (c-4) wherein said heterocyclic ring system Z is attached to the rest of the molecule with a nitrogen atom, and R¹⁰ is hydrogen; then R⁴ is other than C₁₋₆alkyl or pyridinyl.

Upon the cancellation of claim 1, the proviso was placed in pending claim 2. It is submitted that original claim 1 provided the necessary support for the added provision to pending claim 2 and that this rejection should be withdrawn.

Claims 3, 6, 12, 13, 15, 16, and 27 depend from claim 2. Therefore it is believed that the rejection as to those claims has also been overcome and withdrawal thereof is respectfully requested.

In making the rejection, the Patent Office also contended that

is other than hydrogen, C₁₋₆alkyl or pyridinyl." limitation in claim 152 of "multiple sclerosis, rheumatoid arthritis or allograft rejection." Applicants point to no support for (Office Action at page 7.)

It unclear what the Patent Office intended by the above statement. The Patent Office is asked to clarify this particular basis for rejection in the next paper issued in the captioned application.

Indefiniteness Rejection

Claims 2, 3, 6, 10-16, 18, 19, 21, 22 and 24-27 were rejected under 35 USC §112, second paragraph. (Office Action at page 8.)

For the reasons set forth below, the rejection is traversed.

Claims 10, 11, 14, 18, 19, 21, 22, and 24-26 have been cancelled. Therefore, the rejection is moot as to those claims and withdrawal thereof is respectfully requested.

In making the rejection, the Patent Office contended that

Claim 2: R8 is defined, but there is no R8 in the compound of formula (I). R3 is defined in the proviso as "a group of formula (b-1)," but there is no group of that formula in the claim. It is not understood what is meant in the proviso by "Z is attached to the rest of the molecule with a nitrogen atom." It is not understood what is meant by "the rest of the molecule" and there is no antecedent basis for this phrase. It is not possible for either (c-3) or (c-4) to be attached by nitrogen, because the ring nitrogen in both rings has a hydrogen substituent. It is not possible for an extra nitrogen to be interposed between the Z moiety and R3, because such a structure is not provided for by formula (I) and such a structure would have unsatisfied nitrogen valences.

(Office Action at pages 7-8.)

R⁸ has been cancelled from claim 2.

"a group of formula (b-1) has been deleted from R3.

The language concerning the attachment of Z has been amended.

It is believed that these amendments overcome the instant rejection and withdrawal thereof is respectfully requested.

Claims 3, 6, 12, 13, 15, 16, and 27 depend from claim 2. Therefore, it is believed that the rejection as to those claims has also been overcome and withdrawal thereof is respectfully requested.

Finally, the Examiner is invited to call the applicants' undersigned representative if any further action will expedite the prosecution of the application or if the Examiner has any suggestions or questions concerning the application or the present Response. In fact, if the claims of the application are not believed to be in full condition for allowance, for any reason, the applicants respectfully request the constructive assistance and suggestions of the Examiner in drafting one or more acceptable claims pursuant to MPEP § 707.07(j) or in making constructive suggestions pursuant to MPEP § 706.03 so that the application can be placed in allowable condition as soon as possible and without the need for further proceedings.

Accordingly, entry of the claims and allowance of the claims is respectfully requested. If the Examiner has any questions regarding this paper, please contact the undersigned.

Respectfully submitted,

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